

## **MUNOFS VI Research Report**

**Forum:** Human Rights Council

**Issue:** Recognition of same- sex marriage

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### **Introduction:**

Same sex marriage (also known as gay marriage) is the union between two people of the same biological gender.

The recognition of same sex marriage is a political, social, religious, human rights and civil rights issue. Debates are carried out all over the world if whether same sex couples should be allowed marriage, be required to hold a different status, or be denied recognition of civil rights, due it religious concerns in many nations of the world. Polls conducted in various places have shown that recognition for same sex marriage rises with higher levels of education, despite the fact that support is stronger with the younger generation. Additionally, there is rising support for legal recognition of same sex marriage across all races, religions, ages, socioeconomic statuses, and ethnicities.

### **Key terms defined:**

**Recognition:** The confirmation or Acknowledgement of the existence of an act performed, of an event that transpired, or of a person who is authorized by another to act in a particular manner. (‘recognition legal definition of recognition. recognition synonyms by the Free Online Law Dictionary..’)

**Marriage:** a legally, religiously, or socially sanctioned union of persons who commit to one another, forming a familial and economic bond (‘Marriage | Define Marriage at Dictionary.com.’).

**Civil Rights:** Rights to personal liberty established by the 13th and 14th Amendments to the U.S. constitution and certain Congressional acts, especially as applied to an individual or a minority group. ("Civil rights | Define Civil rights at Dictionary.com."). Personal liberties that belong to an individual, owing to his or her status as a citizen or resident of a particular country or community ("Civil Rights legal definition of Civil Rights. Civil Rights synonyms by the Free Online Law Dictionary..").

**Human Rights:** Basic rights that fundamentally and inherently belong to each individual. Freedoms established by custom or international agreement that impose standards of conduct on all nations. Human

rights are distinct from civil liberties, which are freedoms established by the law of a particular state and applied by that state in its own jurisdiction ("Human Rights legal definition of Human Rights. Human Rights synonyms by the Free Online Law Dictionary..").

### **General Overview of Topic:**

Thirteen countries- Argentina, Belgium, Brazil, Canada, Denmark, Netherlands, France and Iceland, Spain, South Africa, Sweden, Norway, Portugal, a few parts of Mexico and USA recognize and legalize same sex marriage. New Zealand and Uruguay have both enacted and passed laws to legalize gay marriage which will come into force in August 2013. Legal Recognition of same sex marriage have been proposed, and are pending in Andorra, England, Wales, Luxembourg, Nepal, Scotland, Finland, Germany, Ireland, Taiwan, and parts of Australia ("Civil Society Pressures Governments to Successfully Reverse Discriminatory Vote at UN | IGLHRC: International Gay and Lesbian Human Rights Commission.")

The obstacles to same sex marriage are far reaching and impact not just the individual and couple, but also their families. Same sex couples are often denied legal protections and benefits such as:

- child custody
- recognized decision-making
- family medical leave
- healthcare
- inheritance
- social security benefits ("Overview of Same Sex Marriage in the U.S.: The Struggle for Civil Rights and Equality.")

### **Major Parties Involved and Their Views:**

#### **USA:**

Most states have adopted prohibitions of same-sex marriage ("Latest International Human Rights News and Information | Amnesty International USA."). Most states do so by adopting “defense of marriage” language that defines marriage in their state constitution similar to the language in the federal Defense of Marriage Act (DOMA) —“the word 'marriage' means only a legal union between one man and one woman as husband and wife” (MACFARQUHAR, NEIL.). Other states prohibit same sex marriages or marriages between persons of the same sex or gender. Twenty-nine states have placed that language in their state constitutions (26 of these states also have statutory provisions adopting this language). A further

six states have statutory language adopting the restrictive language. Thirteen states and the District of Columbia currently allow same-sex marriages. ("Defining Marriage: Defense of Marriage Acts and Same-Sex Marriage Laws.")

#### **Australia:**

Australia currently bans recognition of same-sex marriages, although as of 2011 the federal Labor Party government officially changed its position to allow a conscience vote on same-sex marriage despite Prime Minister Julia Gillard's opposition to such a vote. Another bill was proposed before The Australian House of Representatives to legalize same-sex marriage which was defeated 42 to 98 votes. However, in one of his first speeches as Prime Minister, Kevin Rudd made it clear that he was a proud supporter of gay marriage, declaring he will consider a plebiscite or referendum on the issue ("The Australian.")

#### **UK:**

Since 2005, same-sex couples have been allowed to enter into civil partnerships, a separate union which provides the legal consequences of marriage.

#### **China:**

The Marriage Law of the People's Republic of China explicitly defines marriage as the union between one man and one woman. No other form of civil union is recognized. The attitude of the Chinese government towards homosexuality is believed to be "three nos": "No approval; no disapproval; no promotion." The Ministry of Health officially removed homosexuality from its list of mental illnesses in 2001. Li Yinhe, a well known sociologist has tried to legalize same-sex marriage several times, including during the National People's Congress in 2000 and 2004. Her efforts failed due to lack of support from the delegates. A government spokesperson said that same-sex marriage was still too "ahead of its time" for China. This statement is understood as an implication that the government may consider recognition of same-sex marriage in the long run, but not in the near future.

#### **France:**

Following the election of François Hollande as President of France in May 2012, new Prime Minister Jean-Marc Ayrault stated that a same-sex marriage bill has been drafted and would be passed. The government introduced a bill to legalize same-sex marriage, Bill 344, in the National Assembly on 17 November 2012. Law No.2013-404 grants same-sex couples living in France, including foreigners

provided at least one of the partners has their domicile or residence in France, the legal right to get married ("France's parliament passes gay marriage bill - World - CBC News.")

### **Major Countries Timeline of Acceptance:**

2001: Netherlands

2002: -

2003: Belgium

2004: -

2005: Canada, Spain

2006: South Africa

2007: -

2008: -

2009: Norway, Sweden

2010: Argentina, Portugal, Iceland

2011: -

2012: Denmark,

2013: Brazil, France, New Zealand, and Uruguay

### **UN involvement, Relevant Resolutions and Treaties and Events:**

In 2003, a number of countries put forward the Brazilian Resolution at the UN Human Rights Commission stating the intention that lesbian and gay rights be considered as fundamental as the rights of all human beings.

In 2006, International Day Against Homophobia (IDAHO) launched a worldwide campaign to end the criminalisation of same-sex relationships, which was supported by international public figures including Nobel laureates, clergy and celebrities.

In 2008, the 34 member countries of the Organization of American States unanimously approved a declaration affirming that human rights protections extend to sexual orientation and gender identity.

The declaration for the universal decriminalization of homosexuality was read out by Ambassador Argüello of Argentina on 18 December 2008, which was the first declaration concerning gay rights read in the General Assembly ("Over 80 Nations Support Statement at Human Rights Council on LGBT Rights » US Mission Geneva.").

On June 17, 2011, a resolution submitted by South Africa requesting a study on discrimination and sexual orientation (A/HRC/17/L.9/Rev.1) passed, 23 to 19 with 3 abstentions, in the Human Rights Council ("GA Third Committee deletes 'sexual orientation' from resolution on extrajudicial executions | International Service for Human Rights.")

### **Examples of Organizations in support:**

- Center for Women's Global Leadership
- Global Rights
- Human Rights Watch
- International Committee for IDAHO (the International Day Against Homophobia)
- International Gay and Lesbian Human Rights Commission (IGLHRC)
- International Lesbian and Gay Association (ILGA)
- International Service for Human Rights
- Pan Africa ILGA
- Public Services International

### **Possible Solutions:**

Possible solutions/methods that can be used to promote the recognition of same sex marriage are:

1. Raise awareness about the discrimination against LGBT people through social media like Facebook, Twitter, Tumblr, etc.
2. Use advertisements featuring LGBT people to promote awareness and open-mindedness.
3. In school, and at home, teach children to study stereotypes and challenge them to improve acceptance at a young age. Teach them to treat same sex marriage just like any other.

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